

application is itself a divisional application of an application that has since issued as U.S. Patent No. 6,292,273 B1 (hereinafter “the ‘273 patent”), which also is entitled, “*APPLIANCE AND METHOD OF USING SAME HAVING A DELETE CAPABILITY FOR SAVED DATA.*” Furthermore, both the ‘944 application and the above referenced application are related to and also incorporate by reference U.S. Patent No. 6,232,973 B1 (hereinafter “the ‘973 patent”), which is entitled “*APPLIANCE AND METHOD FOR NAVIGATING AMONG MULTIPLE CAPTURED IMAGES AND FUNCTIONAL MENUS.*” The ‘944 application, the ‘273 patent, and the ‘973 patent all include claims drawn to an “image capture and communication appliance,” which Applicants contend covers, among other things, a digital camera.

Support for construing the “image capture and communication appliance” as covering, among other things, a digital camera is found on page 15 of the ‘944 application, which describes that the invention may be implemented in a “digital camera.” Identical support is found in the ‘273 patent at column 10, lines 50-62. Furthermore, in compliance with 37 C.F.R. § 1.83, a digital camera is depicted in FIG. 2 of both the ‘944 application and the ‘273 patent. While the ‘973 patent does not itself expressly state the words “digital camera” like the ‘944 application and the ‘273 patent, it does, however, incorporate by reference U.S. Application Serial No. 09/130,082, which is the application that issued as the ‘273 patent. Thus, the ‘973 patent also, by incorporation, includes the subject matter of a digital camera as an image capture and communication appliance. Therefore, it is evident that the claimed “image capture and communication appliance” in each of the ‘944 application, the ‘273 patent, and the ‘973 patent indeed cover, among other things, a digital camera, which is properly supported by the specification and drawings.

Even though Applicants contend that the claims of '944 application, the '273 patent, and the '973 patent cover a digital camera, Applicants have filed the above referenced application in an effort to further clarify and define the invention as specifically covering a digital camera. Furthermore, Applicants have included the above amendment to the Summary of the Invention to further clarify that the invention does indeed cover digital cameras. Because the above referenced application claims priority to and incorporates the aforementioned '944 application by reference, it has proper support for claiming a digital camera and does not introduce new matter. Moreover, the amendment to the Summary of the Invention set forth above also does not introduce new matter for the same reasons.

Favorable action in regard to the application is earnestly solicited.

Respectfully submitted ,

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APPENDIX A

Version with Markings to Show Changes Made.

The SUMMARY OF THE INVENTION is amended as indicated below by deleting the text within brackets ("[]") and inserting the text that is underlined ("__").

A. First paragraph under the heading "SUMMARY OF THE INVENTION" beginning on page 4 of the originally filed application:

The present invention overcomes the inadequacies and deficiencies of the prior art as discussed hereinbefore. The present invention provides an image capturing appliance, which, as a non-limiting example, may be a digital camera, incorporating a menu/image navigation interface for communicating with and allowing the user to view multiple captured images as well as navigate menus on the appliance. The menu/captured image navigation interface and method facilitate ease of use and hardware simplification and miniaturization of the capturing appliance for seamless integration of the appliance into a consumer's existing tools and processes.